

DECLARATION  
AND POWER OF ATTORNEY

COPY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. underneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

## SURGICAL INSTRUMENT FOR ABLATION AND ASPIRATION

and for which a patent application:

- is attached hereto and includes amendment(s) filed on \_\_\_\_\_ (if applicable)
- was filed in the United States on October 5, 1999 as Application No. 09/412,878 (for declaration not as a continuing application)
- was filed as PCT international Application No. \_\_\_\_\_ on \_\_\_\_\_ and was amended under PCT Article 19 on \_\_\_\_\_ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

APPLICATION NUMBER	FILING DATE

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED

POWER OF ATTORNEY: As a named inventor, I hereby appoint S. Leslie Misrock (Reg. No. 18872), Harry C. Jones, III (Reg. No. 20280), Berj A. Terzian (Reg. No. 20060), Gerald J. Flintoff (Reg. No. 20823), David Weild, III (Reg. No. 21094), Jonathan A. Marshall (Reg. No. 24614), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Isaac Jarkovsky (Reg. No. 22713), Joseph V. Colaianni (Reg. No. 20019), Charles E. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauzon, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29164), Michael J. O'Dell (Reg. No. 19766), James N. Palik (Reg. No. 25510), Thomas E. Fribel (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30743), Jon R. Stark (Reg. No. 30111), Allan A. Fanucci (Reg. No. 30256), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Lippman (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmund R. Bannon (Reg. No. 32110), Bruce J. Ballou (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), Ann L. Gisolfi (Reg. No. 31956), Mark A. Farley (Reg. No. 33170), and James G. Markey (Reg. No. 31636), all of Pennie & Edmonds LLP, whose addresses are 1155 Avenue of the Americas, New York, New York 10036, 1667 K Street N.W., Washington, DC 20006 and 3300 Hillview Avenue, Palo Alto, CA 94304, and each of them, my attorneys, to prosecute this application, and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDENCE TO:			DIRECT TELEPHONE CALLS TO:		
PENNIE & EDMONDS LLP 1155 AVENUE OF THE AMERICAS NEW YORK, N.Y. 10036-2711			PENNIE & EDMONDS LLP DOCKETING (212) 790-2803		
2 0 1	FULL NAME OF INVENTOR	LAST NAME Sharkey	FIRST NAME Hugh	MIDDLE NAME R.	
	RESIDENCE & CITIZENSHIP	CITY Woodside	STATE OR FOREIGN COUNTRY California	COUNTRY OF CITIZENSHIP U.S.A.	
	POST OFFICE ADDRESS	STREET 150 Normandy Lane	CITY Woodside	STATE OR COUNTRY California	ZIP CODE 94062
2 0 2	FULL NAME OF INVENTOR	LAST NAME Strul	FIRST NAME Bruno	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY Portola Valley	STATE OR FOREIGN COUNTRY CA	COUNTRY OF CITIZENSHIP U.S.A.	
	POST OFFICE ADDRESS	STREET 485 Cervantes Road	CITY Portola Valley	STATE OR COUNTRY CA	ZIP CODE 94028
2 0 3	FULL NAME OF INVENTOR	LAST NAME Stewart	FIRST NAME Daren	MIDDLE NAME L.	
	RESIDENCE & CITIZENSHIP	CITY Belmont	STATE OR FOREIGN COUNTRY CA	COUNTRY OF CITIZENSHIP U.S.A.	
	POST OFFICE ADDRESS	STREET 2013 Notre Dame Avenue	CITY Belmont	STATE OR COUNTRY CA	ZIP CODE 94002
2 0 4	FULL NAME OF INVENTOR	LAST NAME Ashley	FIRST NAME John	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY San Francisco	STATE OR FOREIGN COUNTRY CA	COUNTRY OF CITIZENSHIP USA	
	POST OFFICE ADDRESS	STREET 184 Burlwood Drive	CITY San Francisco	STATE OR COUNTRY CA	ZIP CODE 94127
2 0 5	FULL NAME OF INVENTOR	LAST NAME Reyes	FIRST NAME Ramiro	MIDDLE NAME L.	
	RESIDENCE & CITIZENSHIP	CITY Union City	STATE OR FOREIGN COUNTRY CA	COUNTRY OF CITIZENSHIP USA	
	POST OFFICE ADDRESS	STREET 32626 Muirwood Drive	CITY Union City	STATE OR COUNTRY CA	ZIP CODE 94587

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 201 <i>Hugh R. Sharkey</i>	SIGNATURE OF INVENTOR 202 <i>Bruno Strul</i>	SIGNATURE OF INVENTOR 203 <i>Daren L. Stewart</i>
DATE 2-1-00	DATE 2/1/00	DATE 2/2/00
SIGNATURE OF INVENTOR 204 <i>John Ashley</i>	SIGNATURE OF INVENTOR 205 <i>Ramiro L. Reyes</i>	
DATE 2-2-00	DATE 2-2-00	

**COPY**

REVOCATION AND SUBSTITUTION OF POWER OF ATTORNEY

The undersigned assignee of the entire interest in patent application Serial No. 09/412,878, filed October 5, 1999, in the name of Hugh R. Sharkey, Bruno Strul, Daren L. Stewart, John Ashley and Ramiro L. Reyes entitled SURGICAL INSTRUMENT FOR ABLATION AND ASPIRATION, hereby revokes all powers of attorney previously granted in connection with this application and appoints the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith; said appointment to be to the exclusion of the inventor(s) and his (their) attorney(s) in accordance with the provisions of 37 C.F.R. 1.36: Harold C. Hohbach, Reg. No. 17,757; Aldo J. Test, Reg. No. 18,048; Thomas O. Herbert, Reg. No. 18,612; Donald N. MacIntosh, Reg. No. 20,316; Edward S. Wright, Reg. No. 24,903; David J. Brezner, Reg. No. 24,774; Richard E. Backus, Reg. No. 22,701; James A. Sheridan, Reg. No. 25,435; Robert B. Chickering, Reg. No. 24,286; Richard F. Trecartin, Reg. No. 31,801; Steven F. Caserza, Reg. No. 29,780; Michael A. Kaufman, Reg. No. 32,988; Edward N. Bachand, Reg. No. 37,085; R. Michael Ananian, Reg. No. 35,050; Stephen M. Knauer, Reg. No. 38,208; Robin M. Silva, Reg. No. 38,304; David C. Ashby, Reg. No. 36,432; Maria S. Swiatek, Reg. No. 37,244, and Dolly A. Vance, Reg. No. 39,054; Victor E. Johnson, Reg. No. 41,546; provided that if any one of said attorneys ceases being affiliated with the law firm of Flehr Hohbach Test Albritton & Herbert LLP as partner, employee or of counsel, such attorney's appointment as attorney and all powers derived therefrom shall terminate on the date such attorney ceases being so affiliated.

Assignee has reviewed that certain Assignment executed by Hugh R. Sharkey, Bruno Strul, Daren L. Stewart, John Ashley and Ramiro L. Reyes in favor of Oratec Interventions, Inc. on February 11, 2000 and filed on February 17, 2000 with the U.S. Patent and Trademark Office, a copy of which is attached hereto, that evidences the placement of title in Assignee.

050395609-0502001

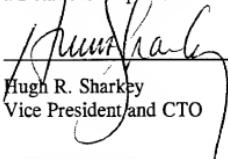
Direct all telephone calls to Edward N. Bachand at (650) 494-8700.

Please note the change of address regarding all future correspondence:

FLEHR HOHBACH TEST  
ALBRITTON & HERBERT LLP  
Suite 3400, Four Embarcadero Center  
San Francisco, California 94111-4187

Assignee: ORATEC INTERVENTIONS, INC.,  
a Delaware corporation

By:

  
Hugh R. Sharkey  
Vice President and CTO

Address: 3700 Haven Court  
Menlo Park, California 94025

Date: March 20, 2000

File No. A-69056/ENB/VEJ

1006675

**COPY**



**UNITED STATES DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

JUNE 09, 2000

PTAS

PENNIE & EDMONDS LLP  
DAVID R. OWENS FOR THOMAS D. KOHLER  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036



\*101322297A\*

9387-006

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 02/17/2000

REEL/FRAME: 010684/0825

NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

SHARKEY, HUGH R.

DOC DATE: 02/01/2000

ASSIGNOR:

STRUL, BRUNO

DOC DATE: 02/11/2000

ASSIGNOR:

STEWART, DAREN L.

DOC DATE: 02/02/2000

ASSIGNOR:

ASHLEY, JOHN

DOC DATE: 02/02/2000

ASSIGNOR:

REYERS, RAMIRO L.

DOC DATE: 02/02/2000

ASSIGNEE:

ORATEC INTERVENTIONS, INC.  
3700 HAVEN COURT  
MENLO PARK, CALIFORNIA 94025

DOC DATE: 02/02/2000

RECEIVED  
2000 JUL 27 PM 12:09  
ALERTION & HELD  
PALO ALTO OFFICE

REFERRED TO	Riviera
RECD	Owens
JUN 19 2000	
Pennie & Edmonds	
O.K. for filing	

010684/0825 PAGE 2

SERIAL NUMBER: 09412878  
PATENT NUMBER:

FILING DATE: 10/05/1999  
ISSUE DATE:

MARY BENTON, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

09895609.662901



2-22-00

Express Mail No. EL 236 252 942 US

04-14-2000



101322297

## 1. Name of conveying party(ies):

Hugh R. Sharkey, Bruno Strul, Daren L. Stewart,  
John Ashley, and Ramiro L. Reyes

Additional name(s) of conveying party(ies) attached?  Yes  No

## 3. Nature of conveyance:

- Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_

Execution Date: February 11, 2000

## 2. Name and address of receiving party(ies):

Name: ORATEC INTERVENTIONS, INC.

Address: 3700 Haven Court, Menlo Park, CA 94025

Country (if other than USA): \_\_\_\_\_

## 4. Application number(s) or patent number(s):

 If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s) 09/412,878

B. Patent No.(s) \_\_\_\_\_

Additional numbers attached?  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

PENNIE & EDMONDS LLP  
1155 Avenue of the Americas  
New York, NY 10036

6. Number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00  
Please charge to the deposit account listed in Section 8.8. Deposit account number:  
16-1150

## DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

David R. Owens Reg. No. 40,756

February 17, 2000

Date

Thomas D. Kohler Reg. No. 32,797

Total number of pages including cover sheet:

3

## ASSIGNMENT

WHEREAS, WE, Hugh R. Sharkey, Bruno Strul, Daren L. Stewart, John Ashley and Ramiro L. Reyes, ASSIGNORS, citizens of the United States of America, residing at 150 Normandy Lane, Woodside, California 94062; 485 Cervantes Road, Portola Valley, California 94028; 2013 Notre Dame Avenue, Belmont, California 94002; 184 Burlwood Drive, San Francisco, CA 94127; and 32626 Muirwood Drive, Union City, California 94587 (respectively), are the inventors of the invention in **SURGICAL INSTRUMENT FOR ABLATION AND ASPIRATION** for which we have executed an application for a Patent of the United States

which is executed on     even date herewith or     \_\_\_\_\_ (date)

which is identified by Pennie & Edmonds LLP docket no. 9387-006-999

which was filed on October 5, 1999 as Application No. 09/412,878

and WHEREAS, ORATEC INTERVENTIONS, INC. at 3700 Haven Court, Menlo Park, California 94025, ASSIGNEE is desirous of obtaining our entire right, title and interest in, to and under the said invention and the said application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to us in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said ASSIGNORS, have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, our entire right, title and interest in, to and under the said invention, and the said United States application and all divisions, renewals and continuations thereof, and all Patents of the United States which may be granted thereon and all reissues and extensions thereof; and all applications for industrial property protection, including, without limitation, all applications for patents, utility models, and designs which may hereafter be filed for said invention in any country or countries foreign to the United States, together with the right to file such applications and the right to claim for the same the priority rights derived from said United States application under the Patent Laws of the United States, the International Convention for the Protection of Industrial Property, or any other international agreement or the domestic laws of the country in which any such application is filed, as may be applicable; and all forms of industrial property protection, including, without limitation, patents, utility models, inventors' certificates and designs which may be granted for said invention in any country or countries foreign to the United States and all extensions, renewals and reissues thereof;

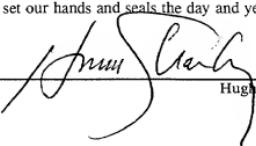
AND WE HEREBY authorize and request the Commissioner of Patents and Trademarks of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents or other evidence or forms of industrial property protection on applications as aforesaid, to issue the same to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we have full right to convey the entire interest herein assigned, and that we have not executed, and will not execute, any agreement in conflict herewith.

AND WE HEREBY further covenant and agree that we will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to us respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing, reissue and foreign applications, make all rightful oaths, and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper protection for said invention in all countries.

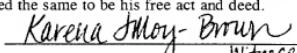
IN TESTIMONY WHEREOF, We hereunto set our hands and seals the day and year set opposite our respective signatures.

Date FEB 1, 2000

  
Hugh R. Sharkey L.S.

State of )  
County of ) SS.:  
            )  
            )

On this day of \_\_\_\_\_, 2000, before me, a Notary Public in and for the State and County aforesaid, personally appeared Hugh R. Sharkey, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and he acknowledged the same to be his free act and deed.

  
Karen Moy-Brown Witness  
Notary Public

Date 2/11/1, 2000

Bruno Strul L.S.  
Bruno Strul

State of                   })  
                              }) SS.:  
County of                  })

On this day of 2/11, 2000, before me, a Notary Public in and for the State and County aforesaid, personally appeared Bruno Strul, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and he acknowledged the same to be his free act and deed.

John S. — Witness Notary Public

\*\*\*\*\*  
Date 2/2, 2000

Daren L. Stewart L.S.  
Daren L. Stewart

State of                   })  
                              }) SS.:  
County of                  })

On this day of 2/2, 2000, before me, a Notary Public in and for the State and County aforesaid, personally appeared Daren L. Stewart, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and he acknowledged the same to be his free act and deed.

Karena Jiloy-Brown Witness Notary Public

\*\*\*\*\*  
Date February 2, 2000

John Ashley L.S.  
John Ashley

State of                   })  
                              }) SS.:  
County of                  })

On this day of February 2, 2000, before me, a Notary Public in and for the State and County aforesaid, personally appeared John Ashley, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and he acknowledged the same to be his free act and deed.

Karena Jiloy-Brown Witness Notary Public

\*\*\*\*\*  
Date Feb. 2, 2000

Ramiro L. Reyes L.S.  
Ramiro L. Reyes

State of                   })  
                              }) SS.:  
County of                  })

On this day of Feb. 2, 2000, before me, a Notary Public in and for the State and County aforesaid, personally appeared Ramiro L. Reyes, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and he acknowledged the same to be his free act and deed.

Karena Jiloy-Brown Witness Notary Public

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

In re application of: Hugh R. Sharkey, Bruno Strul, Daren L. Stewart, John Ashley and  
Ramiro L. Reyes

Application No.: 09/412,878

Group Art Unit: To Be Assigned

Filed: October 5, 1999

Examiner: To Be Assigned

For: SURGICAL INSTRUMENT FOR  
ABLATION AND ASPIRATION

Attorney Docket No.:  
9387-006-999

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
[37 CFR 1.9(f) and 1.27(c)] - Small Business Concern

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

I hereby declare that I am

- the owner of the small business concern identified below:  
 an official of the small business concern empowered to act in behalf of  
the concern identified below:

Name of concern ORATEC INTERVENTIONS, INC.

Address of concern 3700 Haven Court  
Menlo Park, California 94025

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the person employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern and/or there is an obligation under contract or law by the inventor(s) to convey rights to the small business concern with regard to the invention, entitled **SURGICAL INSTRUMENT FOR ABLATION AND ASPIRATION** by inventor(s) **Hugh R. Sharkey, Bruno Strul, Daren L. Stewart, John Ashley and Ramiro L. Reyes** described in

- the specification filed herewith  
 application no. 09/412,878 filed October 5, 1999  
 patent no. issued

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no

03062909-0959938906

rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

INDIVIDUAL     SMALL BUSINESS CONCERN     NONPROFIT  
ORGANIZATION

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

INDIVIDUAL     SMALL BUSINESS CONCERN     NONPROFIT  
ORGANIZATION

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

INDIVIDUAL     SMALL BUSINESS CONCERN     NONPROFIT  
ORGANIZATION

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

INDIVIDUAL     SMALL BUSINESS CONCERN     NONPROFIT  
ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28 (b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

Send correspondence to: PENNIE & EDMONDS LLP  
1155 Avenue of the Americas  
New York, N.Y. 10036-2711      Direct Telephone calls to:  
PENNIE & EDMONDS LLP  
(212) 790-9090

Name of person signing Hugh R. Sharkey  
Title of person other than owner Executive Vice President, Chief Technical Officer  
Address of person signing 3700 Haven Court, Menlo Park, California 94025  
Signature Hugh R. Sharkey Date 2-1-00

\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities.  
(37 CFR 1.27)